

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

JEREMY BRADEN,

Plaintiff,

v.

WAL-MART STORES, INC., et al.,

Defendants.

CIVIL ACTION
No. 08-CV-3109-GAF

(Judge Gary A. Fenner)

DECLARATION OF EDWARD V. HICKEY

I, Edward V. Hickey, state and declare as follows:

1. This declaration is submitted in support of the Motion to Dismiss Amended Complaint filed by the Merrill Lynch Defendants in the above-captioned case.
2. I am more than 18 years of age, am capable of making this declaration, and have personal knowledge of the authenticity of the following.
3. I am an attorney at O'Melveny & Myers LLP, counsel for the Merrill Lynch Defendants in the above-captioned case.
4. Attached as Exhibit A is a true and correct copy of the Plan document, effective October 31, 2003 and as amended August 31, 2007, as introduced by Wal-Mart in the Declaration of Karen Light (Dkt. #29-2.)
5. Attached as Exhibit C is a true and correct copy of the Servicing Agreement between Wal-Mart Stores, Inc. and Merrill Lynch, Pierce, Fenner & Smith

Incorporated, dated May 9, 1997 and effective as of February 1, 1997, as referenced in plaintiff's Amended Complaint at ¶ 40, Bates-labeled WAL059226-60.

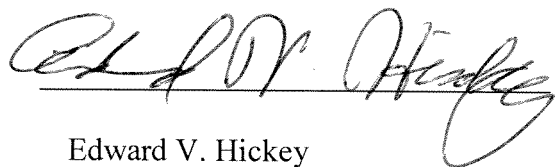
6. Attached as Exhibit G is a true and correct copy of the Trust Agreement between Wal-Mart Stores, Inc. Merrill Lynch Trust Company, FSB, dated August 1, 2003, as referenced in plaintiff's Amended Complaint at ¶ 41, Bates-labeled WAL002481-96.

7. Attached as Exhibit H is a true and correct copy of the 2003 Form 550, Annual Return/Report of Employee Benefit Plan, executed on behalf of the Wal-Mart Profit Sharing and 401(k) Plan, as referenced in plaintiff's Amended Complaint at ¶ 81, Bates-labeled WAL004282-460.

8. Attached as Exhibit I is a true and correct copy of the Amendment to the Servicing Agreement between Wal-Mart Stores, Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, dated July 29, 2003, as referenced in plaintiff's Amended Complaint at ¶ 40, Bates-labeled WAL050767-802.

9. I declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on this 1st day of October, 2010, at Washington, D.C.



Edward V. Hickey